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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

GVCL VENTURES, INC., *et al.*,

Plaintiffs,

vs.

OPERTURE, INC., *et al.*,

Defendants.

2:16-cv-02892-JAD-VCF

ORDER

11 Before the Court is Counterclaimant's Motion to Extend Time to Serve First Amended
12 Counterclaim and to Permit Service by Publication. (ECF No. 44).

13 **Service By Publication**

14 Pursuant to Fed. R. Civ. P. 4(e)(1), "an individual – other than a minor, an incompetent person, or
15 a person whose waiver has been filed – may be served in a judicial district of the United States by
16 following state law for serving a summons in an action brought in courts of general jurisdiction in the state
17 where the district court is located or where service is made." Under Rule 4(e)(1) of the Nevada Rules of
18 Civil Procedure, "when the person on whom service is to be made resides out of the state, or has departed
19 from the state, or cannot, after due diligence, be found within the state, or by concealment seeks to avoid
20 the service of summons, and the fact shall appear, by affidavit, to the satisfaction of the court or judge
21 thereof, and it shall appear, either by affidavit or by a verified complaint on file, that a cause of action
22 exists against the defendant in respect to whom the service is to be made, and that the defendant is a
23 necessary or proper party to the action, such court or judge may grant an order that the service be made
24 by the publication of summons."

25 GoPetFriendly asserts that the after diligent effort, it is unable to serve Mike Dillon and John
Taylor within the state of Nevada. (ECF No. 44 at p. 2). In support of this assertion, GoPetFriendly

1 provided the court with an affidavit of attempted service on Dillon and Taylor. (ECF No. 44-8 and 44-9).
2 The last known address for Dillon is 985 S. Maryland, Las Vegas, Nevada 89183. *Id.* The last known
3 address for Taylor is 7435 S. Eastern, Las Vegas, Nevada 89123. Service were unsuccessful at both
4 addresses. *Id.*

5 The court finds that pursuant to Fed. R. Civ. P. 4(e)(1) and Nev. R. Civ. P. 4(e)(1), permitting
6 service by publication of the Summons and Complaint are warranted on Dillon and Taylor. Pursuant to
7 Rule 4(e)(1)(iii), the publication must be made in a newspaper, published in the State of Nevada, for a
8 period of 4 weeks, and at least once a week during said time. Nev. R. Civ. P. 4(e)(1)(iii).

9 **Extension For Service**

10 Fed. R. Civ. P. 4(m) requires a defendant to be served within 90 days after the complaint is filed.
11 If “the plaintiff shows good cause for the failure [to serve a defendant within that time-frame], the court
12 must extend the time for service for an appropriate period.” Fed. R. Civ. P. 4(m).

13 GoPetFriendly asserts that additional time is required to effect service, and asks this court to extend
14 the 4(m) deadline for Gerald Neziol, Mike Dillon, and John Taylor. (ECF No. 44 at 2). The Counterclaim
15 was filed on July 21, 2017, which makes October 19, 2017 the last day to effectuate service. Fed. R. Civ.
16 P. 4(m). An extension to effectuate service is needed for Neziol since its counsel has agreed to accept
17 service. (ECF No. 44 at 2).

18 Given that GoPetFriendly has demonstrated “good cause” for its failure to effectuate service and
19 has provided support for its request for an extension, the court will extend the 4(m) deadline, up to and
20 including January 19, 2018. *See* Fed. R. Civ. P. 4(m).


21 Accordingly, and for good cause shown, IT IS HEREBY ORDERED that Counterclaimant’s
22 Motion to Extend Time to Serve First Amended Counterclaim and to Permit Service by Publication (ECF
23 No. 44) is GRANTED.

1 IT IS FURTHER ORDERED that a copy of the Summons and Complaint must be mailed to Dillon
2 and Taylor at their last known address by certified U.S. Mail, return receipt requested.

3 IT IS FURTHER ORDERED that, pursuant to Fed. R. Civ. P. 4(e)(1) and Nev. R. Civ. P. 4(e)(1)(i)
4 and (iii), the Summons on Dillon and Taylor in this action must be served by publication in a newspaper,
5 published in the state of Nevada, for a period of four weeks and at least once a week during that time.

6 IT IS FURTHER ORDERED that the deadline to effect service of process is extended up to and
7 including January 19, 2018 for Neziol, Dillon, and Taylor.

8 DATED this 20th day of November, 2017.



CAM FERENBACH
UNITED STATES MAGISTRATE JUDGE